

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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| HUGO VINICIO HERNANDEZ, | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | |
| | : | CASE NO. 3:04-CV-1931 (AWT) |
| CAVALIERE CUSTOM HOMES, INC., | : | |
| | : | |
| Defendant. | : | |
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| | : | |

RULING ON MOTION FOR PHYSICAL EXAMINATION OF THE PLAINTIFF

Pending before the court is defendant Cavaliere Custom Homes, Inc.'s Motion for Physical Examination of the Plaintiff (doc. #56). The defendant seeks an independent physical examination of the plaintiff's neck and back by Dr. Robert N. Margolis of New Haven. The plaintiff has not objected to this motion.

The plaintiff's complaint alleges that he was injured while working at the defendant's construction site, when a lift truck tipped over, causing him to fall approximately 40 feet to the ground. The plaintiff alleges that his injuries are permanent, disabling and disfiguring and affect his current and future earnings capacity. The defendant argues that an independent medical examination is warranted because the plaintiff's physical condition is in controversy.

The defendant has demonstrated good cause pursuant to Fed. R. Civ. P. 35. The plaintiff shall appear for the requested independent medical examination with Dr. Margolis on a mutually

agreeable date.

The defendant also requests that the plaintiff bring with him his medical records relating to his neck or back as well as someone who speaks English and Spanish and can accurately interpret during the examination. This is stated as a request directed to the plaintiff, and there is no indication that the parties have a discovery dispute requiring court intervention.¹ The court therefore does not enter an order regarding the production of medical records or procurement of an interpreter.

The defendant's Motion for Physical Examination of the Plaintiff is granted as set forth herein.

SO ORDERED at Hartford, Connecticut this 4th day of December, 2006.

 /s/
Donna F. Martinez
United States Magistrate Judge

¹The defendant has not attached a Local Rule 37(a) affidavit regarding efforts to resolve any such dispute, if there is one.